

**Senate Bill No. 1616**

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Passed the Senate August 31, 2006

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*Secretary of the Senate*

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Passed the Assembly August 28, 2006

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*Chief Clerk of the Assembly*

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This bill was received by the Governor this \_\_\_\_\_ day  
of \_\_\_\_\_, 2006, at \_\_\_\_\_ o'clock \_\_\_\_M.

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*Private Secretary of the Governor*

## CHAPTER \_\_\_\_\_

An act to add Sections 1764.7 and 1764.8 to the Welfare and Institutions Code, relating to incarcerated juveniles.

## LEGISLATIVE COUNSEL'S DIGEST

SB 1616, Kuehl. Juveniles: incarceration: Medi-Cal: SSI: SSDI.

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Services and under which qualified low-income persons receive health care benefits. The Medi-Cal program is, in part, governed and funded by federal Medicaid provisions.

Existing law excludes from coverage under the Medi-Cal program care or services for any individual who is an inmate of an institution, except as specified.

The bill would require the Department of Corrections and Rehabilitation, Division of Juvenile Justice, to identify any ward with a disability who is likely to be eligible for the Medi-Cal program upon release, and ensure that he or she files an application for Medi-Cal within a specified period prior to his or her release. The bill would also require the division to notify the county welfare department of the county where the ward is likely to be released of each ward with a disability who is determined by the division to be likely to be eligible for Medi-Cal benefits upon release from incarceration, and would require the county welfare department to review the application to determine eligibility. These provisions would not apply if the ward is legally entitled to withhold consent, and does so, or if the parent or guardian of the ward opts out of the eligibility determination. The bill would require the division to ensure that each ward with a disability who has been determined to be eligible, or likely to be eligible, for Medi-Cal benefits upon release of incarceration, possesses a Medi-Cal eligibility document at the time of his or her release.

Existing federal law provides for the Supplemental Security Income (SSI) program, administered by the federal Social

Security Administration, pursuant to which benefits are provided to low-income aged, blind, and disabled persons.

Existing federal law provides for the Social Security Disability Insurance (SSDI) program, administered by the federal Social Security Administration, pursuant to which benefits are provided to persons with disabilities who have paid the requisite social security taxes.

This bill would require the division to request the Social Security Administration to suspend rather than terminate the benefits of an incarcerated youth during his or her incarceration, and to ensure that when an incarcerated youth's SSI or SSDI benefits are suspended due to his or her incarceration, an application for reinstatement of those benefits is filed on the youth's behalf within a specified period before his or her release. It would also require the division to ensure that if a youth's SSI or SSDI benefits are terminated during his or her incarceration, a new application for those benefits is filed on his or her behalf, and to ensure that each youth on whose behalf an application for reinstatement or a new application for SSI or SSDI benefits is filed, and who has not received an eligibility determination prior to his or her release, possesses a copy of the application at the time of that release.

The bill would require the division to identify each youth with a disability who is likely to be eligible for SSI or SSDI benefits upon release, but has not previously been determined to be eligible, and to ensure that an application is filed on the ward's behalf and that the ward possesses a copy of the application at the time of his or her release.

The bill would impose certain other requirements on the division with respect to facilitating the provision of SSI and SSDI benefits to youths released from incarceration.

The bill would also provide that its provisions shall become operative on July 1, 2007.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the

state, reimbursement for those costs shall be made pursuant to these statutory provisions.

*The people of the State of California do enact as follows:*

SECTION 1. (a) The Legislature finds and declares all of the following:

(1) When released from incarceration from the Department of Corrections and Rehabilitation, Division of Juvenile Justice, youth with disabilities often lack access to mental health services, stable housing, employment or other income, and education. Without basic supports, many needlessly become trapped in a cycle of destitution, deterioration, rearrest, and reincarceration.

(2) Upon release from incarceration, youth with disabilities need basic services and supports to enable them to transition successfully to community life. Existing federal and state programs, such as Medi-Cal, Supplemental Security Income (SSI) and Social Security Disability Insurance (SSDI), provide health care coverage and income support to people with disabilities. Often, however, youth with disabilities released from incarceration are not enrolled in these programs, or the commencement of benefits is unreasonably delayed.

(3) Seventy-six percent of youth that are released from incarceration are rearrested within 42 months.

(4) Incarcerated youth have substantially higher rates of mental health disorders and disabilities than youth in the general population.

(b) It is the intent of the Legislature, in enacting this act, to do the following:

(1) Assist youth with disabilities in maintaining their eligibility for federal and state benefit programs while they are incarcerated in the Department of Corrections and Rehabilitation, Division of Juvenile Justice, and in applying for federal and state benefit programs so that, upon release, all eligible youth with disabilities immediately begin to receive federal and state benefits for which they are eligible.

(2) Promote the successful reentry into the community of youth with disabilities, enhance public safety, and provide relief

to taxpayers from fiscal burdens imposed by avoidable recidivism.

(3) Direct the Department of Corrections and Rehabilitation, Division of Juvenile Justice, and the State Department of Health Services to adopt policies and procedures that enable youth with disabilities, upon release from incarceration, to participate immediately in federal and state benefit programs for which they qualify, and to be expeditiously reinstated or enrolled in federal and state benefit programs for which they are eligible.

SEC. 2. Section 1764.7 is added to the Welfare and Institutions Code, to read:

1764.7. (a) The division shall identify any ward with a disability who is likely to be eligible for the Medi-Cal program upon release, and ensure that he or she files an application for Medi-Cal no less than 90 days before the date of his or her scheduled release. The division shall ensure that the application includes, with the ward's consent, medical and other information required to support the application.

(b) The division shall notify the county welfare department of the county where the ward is likely to be released of each ward with a disability who is determined by the division to be likely to be eligible for Medi-Cal benefits upon release from incarceration. The notice shall be provided no less than 90 days prior to the date of the ward's scheduled release.

(c) With respect to an incarcerated youth with a disability who applies for the Medi-Cal program while incarcerated, the county welfare department shall review the application to determine eligibility or likely eligibility upon release from incarceration as quickly as possible upon the receipt of the application, in accordance with standard processing timeframes.

(d) If the county welfare department determines that the youth is not eligible or not likely to be eligible for the Medi-Cal program upon release from incarceration, the county welfare department, with the consent of the youth's parent or guardian, if the youth is a minor, shall forward the youth's information to the appropriate entity to determine eligibility for the Healthy Families Program, or another appropriate health coverage program, as determined by the county welfare department.

(e) The division shall notify the parent or guardian, in writing, of its intention to ensure the submission of the information

required by subdivision (a) to the county welfare department, and shall provide the parent or guardian with a reasonable amount of time to opt out of the Medi-Cal eligibility determination. Subdivisions (a), (b), and (d) shall not apply with respect to any ward who is legally entitled to withhold consent, and chooses to withhold consent, or whose parent or guardian has opted out of the Medi-Cal eligibility determination.

(f) The division shall ensure that each ward with a disability who has been determined by the county welfare department to be either eligible for Medi-Cal benefits or likely to be eligible for Medi-Cal benefits upon release from incarceration, possesses a Medi-Cal document that establishes eligibility at the time of his or her release from incarceration. A youth who is provided a Medi-Cal document that establishes eligibility and who is subsequently found to be ineligible for Medi-Cal benefits, shall not be required to reimburse the department or a provider for any services received by using his or her Medi-Cal document that establishes eligibility.

(g) Nothing in this section shall authorize the continued incarceration of a ward who has not received the appropriate Medi-Cal documentation.

(h) The Department of Corrections and Rehabilitation and the State Department of Health Services may adopt regulations to implement this section.

(i) As an alternative to the adoption of regulations, and notwithstanding the rulemaking provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, or any other provision of law, the Department of Corrections and Rehabilitation and the State Department of Health Services may implement and administer this section by means of provider bulletins, county letters, manuals, or other similar instructions, without taking regulatory action. The departments shall notify the fiscal and appropriate policy committees of the Legislature of its intent to issue a provider bulletin, manual, or similar instruction, at least five days prior to issuance. In addition, the departments shall provide a copy of any provider bulletin, manual, or similar instruction issued under this paragraph to the fiscal and appropriate policy committees of the Legislature. The departments shall consult

with interested parties and appropriate stakeholders regarding the implementation and ongoing administration of this section.

(j) The division shall collaborate with the State Department of Health Services and county welfare departments in the development of the regulations, policies, and procedures necessary to implement this section.

(k) The division shall convene a group of stakeholders, including counties, the State Department of Health Services, and other interested parties to identify methods to facilitate the implementation of this section and Section 1764.8.

(l) This section shall apply only to the extent that federal financial participation is available.

(m) (1) For purposes of this section, a ward is “likely to be eligible for Medi-Cal benefits” if any of the following applies:

(A) The ward’s enrollment in the Medi-Cal program was terminated during his or her incarceration.

(B) The ward was enrolled in the Medi-Cal program at any time during the five years prior to his or her incarceration.

(C) The ward was not previously enrolled, but is likely to meet eligibility criteria for the Medi-Cal program upon his or her release from incarceration.

(2) For purposes of this section, “ward” means a person in the custody of the division.

(n) This section shall become operative on July 1, 2007.

SEC. 3. Section 1764.8 is added to the Welfare and Institutions Code, to read:

1764.8. (a) The division shall do all of the following:

(1) If a ward is enrolled in the SSI or SSDI program, request the federal Social Security Administration to suspend rather than terminate the ward’s benefits while he or she is incarcerated, and notify the Social Security Administration of his or her scheduled release date.

(2) Ensure that when a ward’s SSI or SSDI benefits are suspended due to his or her incarceration, an application for reinstatement of those benefits is filed on the ward’s behalf no less than 90 days before the date of his or her scheduled release.

(3) Ensure that if a ward’s SSI or SSDI benefits are terminated during his or her incarceration, a new application for those benefits is filed on his or her behalf no less than 90 days before his or her scheduled release. The division shall ensure that an

application includes, with the youth's consent, medical and other information required to support the application.

(4) Ensure that each ward on whose behalf an application for reinstatement or a new application for SSI or SSDI benefits is filed, and who has not received an eligibility determination prior to his or her release from incarceration, possesses a copy of the application at the time of his or her release.

(5) Identify each ward with a disability who is likely to be eligible for SSI or SSDI benefits upon release, but has not previously been determined to be eligible, and ensure that each of the following occurs:

(A) An application is filed on the ward's behalf no less than 90 days before his or her scheduled release from incarceration. The division shall ensure that the application includes, with the youth's consent, medical and other information required to support the application.

(B) The ward possesses a copy of the application at the time of his or her release from incarceration.

(6) With the applicant's permission, provide a copy of each application required to be filed pursuant to this section to a family member designated by the applicant and to any mental health case manager who will work with the youth upon release. Permission to provide a copy to a parent, guardian, or individual acting in the role of a parent shall not be required in the case of a minor under 16 years of age.

(7) Use its best efforts to negotiate prerelease agreements with the federal Social Security Administration that will ensure that all of the following occur:

(A) Expedient consideration by the Social Security Administration of new applications and applications for reinstatement of SSI or SSDI benefits on behalf of wards with disabilities.

(B) Information is conveyed to the Social Security Administration regarding the expected and actual release dates of wards with disabilities whose applications have been approved or are pending.

(8) Ensure that, once negotiated, each agreement described in paragraph (7) is implemented as soon as practicable.

(b) For purposes of this section, the following definitions apply:

(1) “Enrolled in the SSI program” means currently eligible, as determined by the Social Security Administration pursuant to SSI program rules, and on eligibility rolls, even if cash benefits are currently suspended.

(2) “Enrolled in the SSDI program” means currently eligible, as determined by the Social Security Administration pursuant to SSDI program rules, and on eligibility rolls, even if cash benefits are currently suspended.

(3) A ward is “likely to be eligible for SSI or SSDI benefits” if any of the following applies:

(A) The ward’s enrollment in the SSI or SSDI program was terminated during his or her incarceration.

(B) The ward was enrolled in the SSI or SSDI program at any time during the five years prior to his or her incarceration.

(C) The ward was not previously enrolled, but is likely to meet eligibility criteria for the SSI or SSDI program upon his or her release from incarceration.

(4) “SSI benefits” means federal supplemental security income benefits pursuant to Title XVI of the federal Social Security Act (42 U.S.C. Sec. 1381 et seq.).

(5) “SSDI benefits” means federal social security disability insurance benefits pursuant to Title II of the federal Social Security Act (42 U.S.C. Sec. 401 et seq.).

(6) “Ward” means a person in the custody of the division.

(c) The division may adopt regulations establishing procedures to implement this section.

(d) This section shall become operative on July 1, 2007.

SEC. 4. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.













Approved \_\_\_\_\_, 2006

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*Governor*